

1                   IN THE UNITED STATES DISTRICT COURT FOR THE  
2                   EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

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3 ALBERTA LOUISE PERRY, surviving spouse  
4 and next of kin of VINCENT MCKINNEY,  
5 deceased,

6                   Plaintiff,

7 vs.

No. 3:21-CV-00414-KAC-JEM  
Jury Demand

8 JENKINS & STILES, LLC and NUCOR  
9 INSULATED PANEL GROUP, INC.,  
d/b/a METL-SPAN,

10                   Defendants.

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15 VIDEO DEPOSITION OF CURTIS KENNEDY

16                   January 11, 2023  
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22                   Elite Reporting Services  
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24                   Kristin E. Burke, LCR  
25                   Associate Reporter  
Knoxville, Tennessee  
(865) 329-9919



1 Q. All right. And who else was with him?

2 A. I just seen on the video that the Vice President of

3 Jenkins & Stiles, Todd Stiles --

4 Q. Okay.

5 A. -- was there.

6 And, also, the guy's name Robby, worked for the

7 sprinkler company, was in that video.

8 Q. Robby was one of the subcontractors?

9 A. He was with Chattanooga Fire.

10 Q. Is that a sub -- a sub?

11 A. Sub, yes.

12 Q. Okay. Where is he now?

13 A. I understand that Robby is deceased.

14 Q. Do you know what happened to him?

15 A. I'd just be repeating, but I think I was told

16 meningitis.

17 Q. Okay. So he got -- he got sick and died?

18 A. Correct.

19 Q. Okay. When you were offloading or attempting to

20 offload the bundles, how many bundles were you picking up?

21 A. Two small ones and a larger one, so three total.

22 Q. Okay. And that's from the right side of the truck?

23 A. Yes.

24 Q. Okay. And in that interview, you were talking

25 about seeing Mr. McKinney up by the gooseneck, and he

1 said -- you say that he said, "Come on;" is that right?

2 A. As I've stated before, I don't remember the  
3 exact -- exact verbiage that was used that day, but I know  
4 for a fact I seen him when I was approaching the load,  
5 standing at the rear fender of his truck. He was rolling  
6 up straps, and we -- we did communicate. We made eye  
7 contact, and I don't know what was said, but I could see  
8 him, you know, and hear him telling me and affirming  
9 that -- to move forward, to go forward with --

10 Q. Had you -- had you had any conversations with  
11 Mr. McKinney before the offloading was starting to happen  
12 about what are going to be our hand signals or what are  
13 going to be our words that we use in communication? In  
14 other words, for lack of a better word, who is going to be  
15 the flagman, stuff like that, come up with a plan for the  
16 offloading?

17 MR. THOMPSON: Object to the form of the  
18 question.

19 THE WITNESS: I instructed the truck  
20 driver. I did not know his name as Mr. McKinney. I  
21 instructed a truck driver to move to the opposite  
22 end of the building. I approached him and made  
23 small talk with him, asked him where he was from,  
24 just small talk while he was finishing unstrapping  
25 the load.

1 was going to be?

2 Because he, as -- as I understand it, he was told  
3 by you that he's going to be the flag person and the  
4 spotter; is that correct?

5 In other words, did you tell Vincent McKinney that  
6 he's going to be the flagman and the spotter for the  
7 offloading of this load?

8 A. I can't say I used those exact words, no.

9 Q. You tell him he was responsible to tell you where  
10 to lift and where to go?

11 A. I did not say, "You're responsible," no. I mean,  
12 that's -- that's not common practice.

13 Q. Did you tell him what words were going to mean and  
14 be used and what they would mean on the job so there was  
15 no confusion as to where you should go and when you should  
16 lift and anything like that?

17 A. As I said, I -- I -- I spoke English. I understood  
18 him to speak very fluid English. So my assumption was he  
19 could understand the vocabulary that -- that was being  
20 used.

21 Q. So it's your understanding that he was to direct  
22 you when to approach and when to lift; is that correct?

23 A. He did, basically, because I called out for him,  
24 and he's the one told me to come on or to move or go ahead  
25 or whatever. So he is the one that told me to move

1 forward.

2 Q. Okay.

3 A. I would not have if he hadn't said -- told me he  
4 was clear.

5 Q. And you're a hundred percent clear that the  
6 communication between you guys before the offloading ever  
7 started and that he understood that was his role; is that  
8 what you're telling us?

9 A. I assumed it was, and I was a hundred percent clear  
10 that he knew I was talking directly to him because there's  
11 no one else around, and I was looking straight at him. So  
12 we had eye contact and verbal contact before I lost vision  
13 of him. And he's the one told me to move forward.

14 Q. What do you mean you lost vision of him?

15 A. Well, I mean, those bundles are, approximately,  
16 30-foot long, and when you move forward from where he was  
17 standing to where I was located, he eventually, you know,  
18 went out of my range of sight.

19 So that's the reason I stopped before I got there  
20 so I could visic -- you know, physically see him and him  
21 know I was approaching, and -- and he told me yes.

22 Q. Did you know that he had finished unstrapping all  
23 the straps?

24 A. Yes. He had done that before I got on the  
25 forklift. They were off the truck.

1 exchanged. You take that to mean that it's clear, that  
2 you can go ahead and start offloading.

3 Is that correct?

4 A. Yes.

5 Q. What were the exact words that he said that  
6 indicated that to you?

7 A. I stated from the beginning I do not remember the  
8 exact verbiage used, but between body language and  
9 communicating, I knew that -- and that he had -- he knew I  
10 was approaching.

11 Q. Okay. And you said that you lost sight of him.  
12 When did that happen?

13 A. He was standing, as I stated, at the rear fender  
14 there where the rear wheel is, the back axle, and when it  
15 became the angle that -- at a certain angle, I'm a few  
16 feet before I actually started to engage the load.

17 Q. Is when you lost sight of him?

18 A. Correct.

19 Q. Okay. So you could not see him when you were  
20 starting to engage the load?

21 A. No, I couldn't.

22 Q. Okay.

23 A. That's -- as I stated before, that's the reason I  
24 stopped when I approached, when I could still see him, and  
25 made -- to make sure he was out of the way.